IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2007

CORAM

THE HONOURABLE MR. JUSTICE F.M. IBRAHIM KALIFULLA
AND
THE HONOURABLE MR. JUSTICE S. TAMILVANAN

WRIT PETITION NO.6172 OF 2007
AND
M.P.NO.1 OF 2007

1. Union of India
   rep. by the Secretary to Government
   of India, Ministry of Health & Family
   Welfare Services, Nirman Bhavan
   New Delhi.

2. The Director
   JIPMER
   Pondicherry - 6.

3. The Chief Medical Officer (Admn)
   JIPMER
   Danvandri Nagar
   Pondicherry - 6. ... Petitioners

Vs.

1. The Registrar
   Central Administrative Tribunal
   at Chennai Bench
   Chennai.

2. Shri P. Karunanithi ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the order dated 19.9.2006 passed in O.A.No.31/2006 on the file of the Central Administrative Tribunal, Chennai Bench, Chennai, the first respondent herein and quash the same.

For Petitioner No.1: Mr. Ramanlal, SCGSC

For Petitioners
2 and 3 : Mr. M.T. Arunan

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O R D E R

(Order of the Court was made by F.M. Ibrahim Kalifulla, J.)

The petitioners are aggrieved against the order of the Tribunal dated 19.9.2006 in and by which the Tribunal allowed the application of the second respondent and set aside the memo of the third petitioner dated 4.1.2006 and directed the petitioners to consider the second respondent for selection of vacancies in the post of Lower Division Clerk notified by the third petitioner in Circular No.Estt.11(47)/2002 Vol.1, dated 23.11.2005. The issue related to the question whether the second respondent who admittedly belonged to the Scheduled Caste community was entitled for the age relaxation applicable to a scheduled caste candidate while applying for promotion to the post of Lower Division Clerk (Unreserved) as a Group `D' employee. The relevant rule applicable for the said promotional post namely, the Lower Division Clerk specifically states that the selection would be made through a departmental examination confined to Group `D' employee who possess the minimum educational qualification of Matriculation. It also states that the maximum age limit would be 45 years and that in respect of SC and ST candidates, it would be 50 years. The further requirement is that they should have put in a minimum of five years regular service in Group `D' posts. The Notification calling for applications was dated 23.11.2005. It is not the case of the petitioners that the above referred to Rule prescribing the age limit and the qualification and the other qualifications was amended to the effect that in respect of unreserved posts of Lower Division Clerk, the relaxation of 50 years provided under Rule for SC and ST candidates was altered and that in respect of such unreserved posts, the age restriction of 45 years should be uniformly applied. In the light of the said stipulation continue to remain in force under the Rules providing for age relaxation upto 50 years for SC and ST irrespective of the fact that whether the post of Lower Division Clerk is reserved or unreserved, it will have to be stated that an SC and ST candidate would be automatically entitled for age relaxation as stipulated under the Rules. Since the petitioners failed to apply the above referred to rule in `stricto sensu' in the case of the second respondent, the order of the Tribunal in having set aside the Memo No.Estt.11(47)/2002 Vol.1, dated 4.1.2006 of the third petitioner while directing the petitioners to consider the application of the second respondent to the vacancies in the post of Lower Division Clerk notified by it in Circular No. Estt.11(47)/2002 Vol.1, dated 23.11.2005 was perfectly justified and we do not find any scope to interfere with the same. The Tribunal while allowing the application of the second respondent taking note of the illegality in the order for rejecting the second respondent's application directed the petitioners to pay a cost of Rs.3000/-. While dismissing the writ

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petition, we only direct that the cost of Rs.3000/- shall stand reduced to Rs.1000/-. In all other respects, the order will stand.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

kb

To

1. The Registrar
Central Administrative Tribunal
at Chennai Bench
Chennai.

2. The Secretary to Government of India,
Ministry of Health and Family Welfare Services
Nirman Bhavan, New Delhi.

1 cc to M/s. M.T. Arunan, SR. 11604

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